

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

**IN RE:
ROBERT W. RIPLEY
KAREN M. RIPLEY**

Debtor(s)

**CASE NO.:
14-01265-5-DMW
(Chapter 13)**

**TRUSTEE'S RESPONSE TO DEBTOR'S
MOTION TO ALLOW PURCHASE OF
REAL PROPERTY AND FEE APPLICATION**

NOW COMES the Chapter 13 Trustee, by and through undersigned counsel, and hereby files this response in objection to the Motion to Allow Debtors to Finance Purchase of Residential Real Property and Fee Application ("Motion to Purchase") filed on behalf of the Debtors on November 7, 2017 (Doc. 41). In support of this response, the Trustee says unto the Court as follows:

1. Robert and Karen Ripley ("Debtors") filed a petition seeking relief under chapter 13 of the Bankruptcy Code on March 4, 2014, and John F. Logan ("Trustee") was thereafter duly appointed as the trustee to administer this case.
2. Schedules I and J filed by the Debtors (Doc. 12, pages 29 – 32 of 49) indicate their monthly rent payment expense is \$1,226.77.
3. These same Schedules I and J also indicate the Debtors' monthly net income is \$88.02 per month.
4. The Debtors' chapter 13 plan was confirmed by the Court on May 30, 2014, and provides for a plan payment schedule of \$88.00 per month for 60 months.
5. Allowed claims of general unsecured creditors total \$14,552.41, but are projected to receive a dividend of less than 1% in this case.
6. The Debtors' chapter 13 plan payment has been increased since confirmation to \$111.00 per month, and then to \$135.00 per month, to account for additional attorney fees granted by the Court in relation to a motion to incur debtor, and later for attorney fees for defense against a motion for relief from the automatic stay.
7. The Debtors are current in monthly plan payments through November 2017, and are in month 44 of their 60-month plan.
8. Schedules I and J have not been updated since the beginning of this case, and no updated income or expense information is contained in or with the Motion to Purchase.

9. The Motion to Purchase reads that the proposed monthly mortgage payment (including escrow for property taxes and insurance) will not exceed \$2,000.00 per month.
10. A \$2,000.00 per month mortgage payment represents a \$773.23 per month increase over the monthly rent listed on their Schedule J.
11. The Debtors have not shown how they will be able to fund this increased housing expense, or pay for other miscellaneous expense which accompany home ownership, and they have not shown why incurring debt at this stage in their case is in their best interests, or the best interests of their creditors.
12. It is not clear to the Trustee why the Debtors' use of any additional monthly income they may now have to make a mortgage payment, versus paying a greater dividend to their unsecured creditors, is representative of good faith.

WHEREFORE, based upon the foregoing, the Trustee objects to the Motion to Purchase and requests that this matter be set for hearing.

DATED: 11/20/17

s/ Michael B. Burnett
Michael B. Burnett
N.C. State Bar No. 42719
Attorney for the Chapter 13
Trustee John F. Logan,
Standing Trustee
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CERTIFICATE OF SERVICE

I, Frances W. Banks, of PO Box 61039, Raleigh, NC 27661-1039, do certify:

That I am and at all times hereinafter mentioned was, more than eighteen (18) years of age; and

That I have this day served a copy of the **TRUSTEE'S RESPONSE** upon all interested parties in this action by depositing a copy of same in a postage paid envelope with the United States Postal Service **or, if such interested party is a filing user by serving such interested party by electronic transmission, pursuant to Local Rule 5005-4(9)(b)** addressed to:

Travis Sasser, Esq.
2000 Regency Parkway, Ste. 230
Cary, NC 27518

Robert W. Ripley
Karen M. Ripley
211 Mayfield Dr.
Apex, NC 27539

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED ON: November 20, 2017

/s/ Frances W. Banks
Frances W. Banks
Case Administrator Supervisor